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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,720	07/02/2003	Ludwig Boge	10338/11	3781

757 7590 08/06/2004

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EXAMINER

GUADALUPE, YARITZA

ART UNIT PAPER NUMBER

2859

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/612,720

Applicant(s)

BOGE ET AL.

Examiner

Yaritza Guadalupe McCall

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/12/2004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 – 14 are rejected under 35 U.S.C. 102 (b) as being anticipated by Holstein (US 4,170,826).

Holstein discloses a method and a device for the directional attachment of a scale element of a position measuring system to an installation face (7) of a first body (1), the method and device comprising the step of aligning a scale element (8) on an installation face (7) of a first body (1) parallel to a measuring direction via an adjustment device (9, 11) provided on a second body which has a scanning head (4) provided thereon and is movable in said measuring direction in relation to said first body (1); attaching said aligned scale element to said installation face, wherein said adjustment device is in an alignment position with respect to said second body during said attaching; and positioning said adjustment device into a position of rest with respect to said second body subsequent to said attaching, wherein said position of rest is different from said alignment position (See Column 3, lines 1 – 25).

Holstein also discloses a device and method wherein at said position of rest, said adjustment device remains on said second body (See Figures 1 and 2) and wherein said adjustment device comprises an adjusting leg (9) for aligning said scale element, which in said alignment position is displaced closer toward said first body than in said position of rest. Holstein also discloses said adjustment device being pre-stressed in either said alignment position or said position of rest by actuation of the lever (12) which will create a force in the spring (17). Holstein discloses a device having said adjustment device provided on said scanning head since the first body and scanning head are contained within the same structure, and wherein in said position of rest said adjustment device does not substantially increases the dimensions of said scanning head. Holstein discloses the scale element comprising a scale (8), a scale support (7') and a scale guide device (7).

Holstein discloses said adjustment device comprises a first adjusting leg (9, 10) and a second adjusting leg (11, 15) attached to said first adjusting leg, wherein said first and second adjusting legs are movably seated with respect to each other and with respect to said second body.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are considered of relevance to the preset application :

- a. Boge (US 6,523,268)
 - b. Boge et al. (US 6,442,861)
 - c. Nelle (US 4,479,304)
 - d. Ernst (US 4,320,578)
 - e. Nelle et al. (US 4,198,757)
 - f. Oberhans (US 4,559,707)
 - g. Giacomello (US 4,541,181)
 - h. Yatsu et al. (US 5,842,283)
 - i. Foster et al. (US 3,696,667)
 - j. Tondorf et al. (US 6,571,486)
 - k. Jung (US 6,178,656)
 - l. Nelle et al. (US 6,163,970)
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yaritza Guadalupe McCall whose telephone number is (571)272-2244. The examiner can normally be reached on 8:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2859

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yaritza Guadalupe-McCall
Patent Examiner
Art Unit 2859
July 30, 2004

DIEGO F.F. GUTIERREZ
SUPERVISOR PATENT EXAMINER
TECHNOLOGY CENTER 2800

[Handwritten signature]
G. BRADLEY BENNETT
PRIMARY EXAMINER
AU 2859